

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

Petitioner,

vs.

File No. 03-1127-CR

THE WELLNESS PLAN,
a Michigan Health Maintenance Organization,

Hon. William E. Collette

Respondent.

GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (p43046)
VICTOR S. VALENTI (P36347)
Attorneys for Claimant
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
19390 W. Ten Mile Road
Southfield, MI 48075
(248) 355-5555

NOTICE OF APPEARANCE

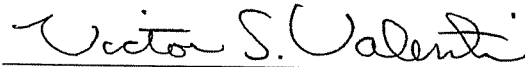
TO: LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN

THE WELLNESS PLAN

PLEASE TAKE NOTICE that FIEGER, FIEGER, KENNEY & JOHNSON, P.C.,
by GEOFFREY N. FIEGER, LLOYD G. JOHNSON and VICTOR S. VALENTI, have
this day filed their notice of appearance of counsel for Guy L. Richardson, as the Personal

Representative of the Estate of Shakeima L. Richardson, deceased, in the above-captioned matter.

Respectfully submitted,



GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P43046)
VICTOR S. VALENTI (P36347)
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
Attorneys for Claimant
19390 W. Ten Mile Road
Southfield, MI 48075-2463
(248) 355-9482

Dated: April 20, 2005

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT
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OFFICE OF FINANCIAL AND INSURANCE SERVICES
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19390 W. Ten Mile Road
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APPEARANCE

FIEGER, FIEGER, KENNEY & JOHNSON, P.C., by GEOFFREY N. FIEGER,
LLOYD G. JOHNSON and VICTOR S. VALENTI, hereby appear as counsel for Guy L.
Richardson, as the Personal Representative of the Estate of Shakeima L. Richardson,
deceased, in the above-captioned matter.

Respectfully submitted,

Dated: April 20, 2005



GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P43046)
VICTOR S. VALENTI (P36347)
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.

Attorneys for Claimant
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GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P45331)
VICTOR S. VALENTI (P36347)
Attorneys for Claimant
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
19390 W. Ten Mile Road
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(248) 355-5555

MOTION TO CLASSIFY CLAIM OF INTERESTED PARTY
GUY L. RICHARDSON AS A CLASS 2 CLAIM
UNDER MCL 500.8142 PRIORITY OF DISTRIBUTION SCHEME

Guy L. Richardson, as Personal Representative of the Estate of Shakeima L. Richardson, deceased, as an Interested Party, by her attorneys, Fieger, Fieger, Kenney & Johnson, P.C., submits this Motion and accompanying Brief and Exhibit pursuant to this Court's February 28, 2005 Order directing Interested Parties to brief the issue of how claims in the Rehabilitation will be classed under Chapter 81 and paid in these Rehabilitation proceedings.

For the reasons fully set forth in the accompanying Brief, the Claim of Guy L.

Richardson should be classified as a Class 2 Claim under the classification scheme of MCL 550.8142(1).

Respectfully submitted,

GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P45331)
VICTOR S. VALENTI (P36347)
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
Attorneys for Claimant
19390 W. Ten Mile Road
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(248) 355-9482

Dated: April 20, 2005

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BRIEF IN SUPPORT OF
MOTION TO CLASSIFY CLAIM OF INTERESTED PARTY
GUY L. RICHARDSON AS A CLASS 2 CLAIM
UNDER MCL 500.8142 PRIORITY OF DISTRIBUTION SCHEME

Introduction

Guy L. Richardson, as Personal Representative of the Estate of Shakeima L. Richardson, deceased, an insured of The Wellness Plan, contemporaneously herewith submitted a Proof of Claim (Exhibit 1) as an Interested Party against The Wellness Plan. The Claim arises out of the facts underlying his lawsuit filed in the Wayne Circuit Court (Case No. 04-434630-NH) which alleges that The Wellness Plan and its agent in

fact/ostensible agent, and or employee Dr. Joseph N. Balatan M.D. committed acts of professional negligence, medical malpractice that resulted in the personal injury and wrongful death of Shakeima Richardson in the period from June 6, 2003 until her death on or about July 15, 2003.

For the reasons fully set forth in the Argument that follows, Guy L. Richardson's Claim is a claim "under policies for losses incurred, including third party claims," and should be classified as a Class 2 Claim under MCL 500.8142(1)(b).

Argument

Guy L. Richardson has a claim against any policies of insurance The Wellness Plan held for errors and omissions/professional malpractice committed by The Wellness Plan or its agents in fact, ostensible agents or employees. The Claim should be classified as a Class 2 claim under the provision for "all claims under policies for losses incurred, including third party claims"

MCL 500.8142(1)(b) provides in relevant part:

"[T]he priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for their payment before the members of the next class receive payment. Subclasses shall not be established within a class. The order of distribution of claims is as follows:

* * *

(B) Class 2. Except as otherwise provided in this section, all claims under policies for losses incurred, including third party claims, . . .

* * *

The Proof of Claim on behalf of Guy L. Richardson clearly resides in Class 2. As an

insured and a creditor of The Wellness Plan, Richardson is clearly also a “third party for purposes of the statute.” See for e.g.: MCL 500.811(2)(b); MCL 500.8138.

Section 8142 is based upon Section 47¹ of the Insurers Supervision, Rehabilitation and Liquidation Act which was promulgated by the National Association of Insurance Commissioners. The Model Act, with some adaptations, was based upon the Wisconsin Insurers Rehabilitation and Liquidation Act. The official comments of the Wisconsin act give an explanation of the purposes behind the particular classification of claim selected by the drafters of that act. According to these comments, the system of priority was chosen “based on the relative social and economic importance of the claims likely to be asserted against an insurer ... to carry out sound public policy by minimizing the damage done to the insured community when an insurer fails.” Quoted in State of Iowa v Iowa National Mutual Ins Co, 430 NW2d 420, 422-423 (Iowa 1988).

The progression of classes downward from Class 1 to Class 9 in Michigan’s §8142(1) demonstrates the legislative intent to first satisfy the costs and expenses of administration of the liquidation, second to pay for the claims of policyholders including third party claims, like the present Claim, and then on down through government claims, to claims not under policies and general unsecured claims and remaining claims including finally those of shareholders. As other state appellate courts have explained, the equitable purpose of rehabilitation and liquidation is to protect policyholder consumers to the fullest extent possible. Minor v Stephens 898 SW2d 71, 78 (Ky 1995); Neff v Cherokee Ins Co,

¹ Section 47(C) provides in relevant part that “All claims under policies ... for losses incurred, including the third party claims or covered obligations of the insurer.”

704 SW2d 1, 6 (Tenn 1986); State ex rel Long v Beacon Life Ins Co, 359 SE2d 508 (NC App 1987).

To that end, the supervision rehabilitation, and liquidation provisions of the insurance code, MCL 500.8101(2) and (3) provide in relevant part:

(2) This chapter shall be liberally construed to the effect the purpose stated in subsection (3).

(3) The purpose of this chapter is the protection of the interests of insureds, claimants, creditors, and the public . . .

Liberal (or equitable) construction “expands the meaning of the statute to meet cases which are clearly within the spirit or reason of the law, or within the evil which it was designed to remedy, providing such an interpretation is not inconsistent with the language used ... It means, not that the words should be forced out of their natural meaning, but simply that they should receive a fair and equitable interpretation with respect to the objects and purposes of the instrument.” Black’s Law Dictionary (6th ed 1990) pp 312-313.

While there is no Michigan authority construing the statute, cases from other jurisdictions construing states based on the Model Act are instructive. The language “claims under policies for losses incurred” defining Class 2 claims refers to consumer insurance policy claims. See Covington v Ohio General Ins Co, 99 Ohio St 3d 117 (2003)[holding claim under reinsurance agreement not a claim under policies for losses incurred even though O.R.C. 3903.42(B) did not specifically exclude reinsurance contracts unlike MCL 500.8142(1)(b)].

The plain intent of Class 2 is to benefit and protect insured members of the unsuspecting public. This is demonstrated by the inclusion of guaranty associations in

Class 2. These associations fund the payment of direct consumer insurance claims submitted by insureds when their insurance company has become insolvent. Covington, supra at 119. Likewise, a third type of Class 2 claim is a claim under a life insurance policy or annuity. These claims compensate individuals for losses that stem from the chance occurrences of life. Covington, supra at 120, citing Couch on Insurance (3d ed 1995). Cf: In the Matter of the Liquidation of National Family Ins Corp, 603 N2d 668 (Minn App 1999) [subrogation claims against insurer's policyholders which arose out of automobile accidents entitled to classification as "loss claims" under statutory category for losses incurred under Minn Stat. §60B44, Subd 4]. In short, the consumer protection aspect of Class 2 claims puts the Guy L. Richardson Claim squarely in that category under §8142(1) directly behind the administrative expenses class of the rehabilitation/insolvency.

As one Pennsylvania court explained:

If, after all, insurance is to perform its function of risk assumption and distribution of loss, then those statutes which govern it must first protect the risks it contracted to assume. Rehabilitation and liquidation are of vital importance to the consumer, who relies in the first place on the industry itself and then on its regulators for protection. No one can dispute that that consumer is not possessed of equal bargaining power, knowledge, or resources as that [] of the other major creditor classes in this proceeding.

Grode v The Mutual Fire, Marine and Inland Insurance Co, 572 A.2d 798 (Pa Commw 1990). Here the plain language of §8142, liberally construed, compels the conclusion that the Claim of Guy L. Richardson should be placed in Class 2 as a claim "under policies for losses incurred, including third party claims"

Relief Requested

For all the foregoing reasons, the Claim of Interested Party Guy L. Richardson should be classified and paid under Chapter 81, MCL 500.8142 as a Class 2 Claim.

Respectfully submitted,

Dated: April 20, 2005



GEOFFREY N. FIEGER (P30441)
LLOY D G. JOHNSON (P43046)
VICTOR S. VALENTI (P36347)
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
Attorneys for Claimant
19390 W. Ten Mile Road
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EXHIBIT

1

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

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Hon. William E. Collette

Respondent.

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19390 W. Ten Mile Road
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PROOF OF CLAIM
OF INTERESTED PARTY
GUY L. RICHARDSON

Guy L. Richardson, whose address is 4838 St. Aubin, Detroit, Michigan 48207, as the Personal Representative of the Estate of Shakeima L. Richardson, deceased, by his attorneys, Fieger, Fieger, Kenney & Johnson, P.C., submits this Proof of Claim pursuant to MCL 500.8136 against The Wellness Plan and its agent in fact/ostensible agent, and/or employee Dr. Josephine N. Balatan M.D. arising out of the professional negligence, medical malpractice that resulted in the personal injury and wrongful death of Shakeima

Richardson in the period from approximately June 6, 2003 until her death on or about July 15, 2003. Additional specific facts about the Claim are set forth in the attached Notice of Intent [NOI] (Exhibit A) and Complaint (Exhibit B). The Complaint was originally filed in the Wayne Circuit Court (Case No. 04-434630-NH) and assigned to the Hon. Gershwin A. Drain.

Richardson claims a right of priority of payment as a Class 2 claim under MCL 500.8142(1)(b).

The Claim is for an unliquidated amount in excess of \$25,000 and is contingent upon the outcome of the lawsuit or an amicable settlement.



GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P43046)
VICTOR S. VALENTI (p36347)
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
Attorney for Claimant
19390 W. Ten Mile Road
Southfield, MI 48075
(248) 355-5555

Dated: April 20, 2005

EXHIBIT

A

This notice is intended to apply to the following health care professionals, entities, and/or facilities as well as any employees or agents, actual or ostensible, thereof, who were involved in the treatment of the patient, SHAKEIMA L. RICHARDSON, to wit:

I. FACTUAL BASIS FOR CLAIM

7. Kenyon Barkley punched and hit Shakeima Richardson, through her diaper, so severely that she could no longer walk, and had great pain in her left thigh and left hip.
8. Rosalee Brown took Shakeima Richardson to see a pediatrician at The Wellness Plan on June 6, 2003.
9. The doctor examined the child but could not explain why the child had such pain in her left thigh and hip that she could not walk.
10. When the child's x-rays came back negative, the doctor sent the child home with her mother.
11. The doctor did not rule out child abuse, or neglect, and did not report the injury to Child Protective Services, or otherwise file an FIA 3200 report.
12. On or about July 4, 2003 Kenyon Barkley maliciously slapped and punched Shakeima Richardson in her head, causing her eyes to be blackened and swollen.
13. On July 5, 2003 Rosalee Brown took her daughter back to The Wellness Plan to see the pediatrician.
14. Rosalee Brown claimed that her daughter had been injured by a mosquito bite.
15. The child was examined by Dr. Josephine N. Balatan.
16. Dr. Balatan confirmed the fact that both eyes were black, that the bruising was present across the nose and that both eyes had evidence of sub-conjunctival hemorrhage.
17. A mosquito bite does not cause a child to suffer two black eyes, bruising, and a sub-conjunctival hemorrhage.
18. Dr. Balatan knew, or should have known, that child abuse or neglect was the most probable cause of the child's injuries on July 5, 2003.
19. This is especially true in light of the suspicious soft tissue injuries suffered by the child only one month earlier and treated at the same clinic.
20. The nature and extent of the child's combined injuries cried out for investigation by Child Protective Services on July 5, 2003.

21. Dr. Balatan did not report the child's suspicious injuries to Child Protective Services, or otherwise file the FIA 3200 report required by the express terms of MCL 722.623(1).
22. Dr. Balatan sent the child home with her mother, and the child was beaten to death by Kenyon Barkley.
23. During the child's autopsy, the pathologist identified a number of severe physical injuries, including evidence of long term/chronic abuse, which caused or contributed to the child's death:
 - a) 9 blunt force impacts to the head, causing bruising to the child's forehead, left jaw, mid back of the head, a subgaleal hemorrhage of the side and top of the head;
 - b) Abrasions on, and in, the child's head and mouth;
 - c) 2 blunt force impacts to the chest, with bilateral rib fractures;
 - d) 7 blunt force impacts to the abdomen, with concomitant bruising, transection of the pancreas, and diffuse mesenteric hemorrhage;
 - e) Peritonitis in the upper abdomen, with green-brown purulent fluid in the abdominal cavity;
 - f) A healing abrasion on the right temple, and an ovoid healing wound on the mid front of the child's neck.
24. These injuries, and Shakeima Richardson's resulting death, would have been avoided if the Defendants had simply done what they were obligated to do by statute, under MCL 722.623(1), to protect the Plaintiff from abuse and neglect.

II. STANDARD OF CARE

A. The Wellness Plan:

As a Medicare/Medicaid participating medical facility The Wellness Plan is obligated to insure that only quality health care is provided to its patients by its nursing staff, staff physicians and medical residents under state and federal law.

B. Dr. Josephine N. Balatan, M.D.:

Dr. Balatan should have telephoned Child Protective Services to report suspected child abuse or neglect after she examined Shakeima L. Richardson, or she should have insured that one of the clinic nurses made such a call on her behalf. She should have, thereafter, followed up the telephone call with the filing of a written FIA 3200 report form so that the suspected abuse or neglect could be investigated by the proper state governmental authorities.

V. PROXIMATE CAUSE

If the Defendants had done what they were required to do, Shakeima L. Richardson would not have been living in Rosalee Brown's home on July 15, 2003 and she would not have been beaten to death by Kenyon Barkley. The Defendants are, therefore, a proximate cause of the Plaintiff, Shakeima L. Richardson's beating death.

VI. NAMES OF HEALTH PROFESSIONALS, ENTITIES, AND FACILITIES NOTIFIED:

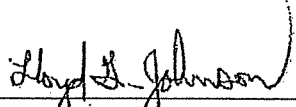
1. **The Wellness Plan**
2875 W. Grand Boulevard
Detroit, MI 48202
2. **Dr. Josephine N. Balatan, M.D.**
2875 W. Grand Boulevard
Detroit, MI 48202
3. **Dr. Josephine N. Balatan, M.D.**
2888 W. Grand Boulevard
Detroit, MI 48202
4. **Dr. Josephine N. Balatan, M.D.**
4321 Savoie Trail, Apartment 1
West Bloomfield, MI 48323

TO THOSE RECEIVING NOTICE: YOU SHOULD FURNISH THIS NOTICE TO ANY PERSON, ENTITY OR FACILITY, NOT SPECIFICALLY NAMED HEREIN THAT YOU REASONABLY BELIEVE MIGHT BE ENCOMPASSED IN THIS CLAIM.

Respectfully submitted,

FIEGER, FIEGER, KENNEY and JOHNSON, P.C.

By: _____


GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P43046)

Attorneys for Plaintiff
19390 West Ten Mile Road
Southfield, MI 48075
(248) 355-5555

DATED: December 20, 2004

EXHIBIT

B

STATE OF MICHIGAN

JURY FEE PAID
THIS DATE:

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

GUY L. RICHARDSON, as the Personal
Representative of the Estate of
SHAKEIMA L. RICHARDSON, deceased,

Plaintiff,

Case No. 04

NH

v

Honorable

THE WELLNESS PLAN FOUNDATION
d/b/a THE WELLNESS PLAN, and
DR. JOSEPHINE N. BALATAN, M.D.

Defendants.

GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P43046)
Attorneys for Plaintiff
19390 West Ten Mile Road
Southfield, Michigan 48075
(248) 355-5555

COMPLAINT AND DEMAND FOR JURY TRIAL

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in the complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

By: Lloyd G. Johnson (P43046)

NOW COMES PLAINTIFF, GUY L. RICHARDSON, Personal Representative of the Estate of SHAKEIMA L. RICHARDSON, deceased, by and through his attorneys FIEGER, FIEGER, KENNEY & JOHNSON, P.C., by LLOYD G. JOHNSON, and for his Complaint, against Defendants, THE WELLNESS PLAN and DR. JOSEPHINE N. BALATAN, states unto this Honorable Court as follows:

NOV 09 2004

1. The Plaintiff decedent, SHAKEIMA L. RICHARDSON (a legal infant), was domiciled at all times pertinent hereto in the City of Detroit, Wayne County, Michigan.
2. The Defendant, THE WELLNESS PLAN FOUNDATION, d/b/a THE WELLNESS PLAN, is a Michigan Corporation doing business in Wayne County, Michigan.
3. The Defendant, DR. JOSEPHINE N. BALATAN, was (at all times pertinent hereto) an employee, agent, or ostensible agent of The Wellness Plan.
4. The cause of action arose in Wayne County, Michigan.
5. The amount in controversy exceeds \$25,000.00.

GENERAL ALLEGATIONS

6. The Plaintiff hereby adopts and incorporates by reference the allegations set forth above in paragraphs 1-5 as if set forth here paragraph by paragraph.
7. The Plaintiff decedent, Shakeima Richardson, was born on April 22, 2002.
8. She resided with her mother, Rosalee Brown, and her mother's boyfriend, Kenyon Barkley, at 2903 Montgomery Street, Detroit, Michigan.
9. As Shakeima Richardson began to crawl and walk Kenyon Barkley perceived her as a nuisance, and began to abuse and batter the child.
10. Shakeima Richardson was born a healthy child.
11. Her mother, Rosalee Brown, took Shakeima Richardson to The Wellness Plan for her pediatric care.

12. In early June 2003 Shakeima Richardson had toddled her way into annoying Kenyon Barkley.
13. Kenyon Barkley punched and hit Shakeima Richardson, through her diaper, so severely that she could no longer walk, and had great pain in her left thigh and left hip.
14. Rosalee Brown took Shakeima Richardson to see a pediatrician at The Wellness Plan on June 6, 2003.
15. The doctor examined the child but could not explain why the child had such pain in her left thigh and hip that she could not walk.
16. When the child's x-rays came back negative, the doctor sent the child home with her mother.
17. The doctor did not suspect child abuse, or neglect, and did not report the injury to Child Protective Services, or otherwise file an FIA "3200" report.
18. On or about July 4, 2003 Kenyon Barkley maliciously slapped and punched Shakeima Richardson in her head, causing her eyes to be blackened and swell.
19. On July 5, 2003 Rosalee Brown took her daughter back to The Wellness Plan to see the pediatrician.
20. Rosalee Brown claimed that her daughter had been injured by a mosquito bite.
21. The child was examined by Dr. Josephine N. Balatan.
22. Dr. Balatan confirmed the fact that both eyes were black, that the bruising was present across the nose and that both eyes had evidence of sub-conjunctival hemorrhage.

23. A mosquito bite does not cause a child to suffer two black eyes, bruising, and a sub-conjunctival hemorrhage.
24. Dr. Balatan knew, or should have known, that child abuse or neglect was the most probable cause of the child's injuries on July 5, 2003.
25. This is especially true in light of the suspicious soft tissue injuries suffered by the child only one month earlier and treated at the same clinic.
26. The nature and extent of the child's combined injuries cried out for investigation by Child Protective Services on July 5, 2003.
27. Dr. Balatan did not report the child's suspicious injuries to Child Protective Services, or otherwise file the FIA 3200 report required by the express terms of MCL 722.623(1).
28. Dr. Balatan sent the child home with her mother, and the child was thereafter beaten to death by Kenyon Barkley on July 15, 2003.
29. During the child's autopsy, the pathologist identified a number of severe physical injuries, including evidence of long term/chronic abuse, which caused or contributed to the child's death:
 - a) 9 blunt force impacts to the head, causing bruising to the child's forehead, left jaw, mid back of the head, a subgaleal hemorrhage of the side and top of the head;
 - b) Abrasions on, and in, the child's head and mouth;
 - c) 2 blunt force impacts to the chest, with bilateral rib fractures;
 - d) 7 blunt force impacts to the abdomen, with concomitant bruising, transection of the pancreas, and diffuse mesenteric hemorrhage;

- e) Peritonitis in the upper abdomen, with green-brown purulent fluid in the abdominal cavity;
 - f) A healing abrasion on the right temple, and an ovoid healing wound on the mid front of the child's neck.
30. These injuries, and Shakeima Richardson's resulting death, would have been avoided if the Defendants had simply done what they were obligated to do by statute, under MCL 722.623(1), to protect the Plaintiff from abuse and neglect.

COUNT I

BREACH OF STATUTORY DUTY OF PROTECTION UNDER CHILD PROTECTION ACT, MCL 722.623 AND 722.633

31. The Plaintiff hereby adopts and incorporates by reference the allegations set forth above in paragraphs 1-30 as if set forth here paragraph by paragraph.
32. As a licensed health care provider, Defendants had a statutory duty and obligation to protect children, coming to them for treatment, from abuse and neglect under MCL 722.623(1).
33. The Defendants knew, or should have known, that the Plaintiff child was the victim of child abuse or neglect when she was examined by the Defendants on July 5, 2003 while suffering from two black eyes within one month of suffering soft tissue injuries to her left leg and hip that were severe enough to prevent her from walking.
34. The Defendants had a statutory duty to report the Plaintiff child's injuries to Child Protective Services by phone on July 5, 2003 and in writing by filing an FIA 3200 report form on July 6, 2003.

JURY DEMAND

NOW COMES PLAINTIFF, GUY L. RICHARDSON, Personal Representative of the Estate of SHAKEIMA L. RICHARDSON, deceased, by and through his attorneys FIEGER, FIEGER, KENNEY & JOHNSON, P.C., by LLOYD G. JOHNSON, and hereby demands a Trial by Jury in the aforementioned cause of action.

Respectfully submitted,

FIEGER, FIEGER, KENNEY & JOHNSON, P.C.

By: Lloyd G. Johnson
GEOFFREY N. FIEGER (P30441)
LLOYD G. JOHNSON (P43046)
Attorneys for Plaintiff
19390 W. Ten Mile Road
Southfield, MI 48075-2463
(248) 355-5555

DATED: November 8, 2004

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

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a Michigan Health Maintenance Organization,

Hon. William E. Collette

Respondent.

GEOFFREY N. FIEGER (P30441)
REBECCA S. WALSH (P45331)
VICTOR S. VALENTI (P36347)
Attorneys for Claimant
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.
19390 W. Ten Mile Road
Southfield, MI 48075
(248) 355-5555

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

VICTOR S. VALENTI, being first duly sworn, deposes and says that he is an attorney with the law firm of Fieger, Fieger, Kenney & Johnson, P.C., and that on April 20, 2005, he served copies of Notice of Appearance, Appearance of counsel, Proof of Claim, Motion to Classify Claim of Interested Party Guy L. Richardson as a Class 2 Claim Under MCL 500.8142 Priority of Distribution Scheme and Proof of Service upon:

Honorable William E. Collette
Ingham County Circuit Court
3rd Floor, Mason Courthouse
Mason, Michigan 48854

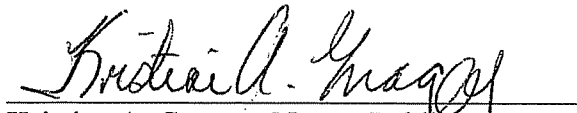
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by enclosing copies of same in envelopes with first class postage fully prepaid thereon and
depositing them in the United States mail at Southfield, Michigan.


VICTOR S. VALENTI

Subscribed and sworn to before me on April 20, 2005.


Kristine A. Gnagey, Notary Public
Wayne County, Michigan
My Commission Expires: 9/4/2005